

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 98004

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-036-98

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

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Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 98004 (LCB File No. R-036-97)** permanently amended NAC 445B.321, minor revisions to Class I air quality operating permits, by clarification of the comment period for Class I minor revisions. This regulation will amend Section 28 of petition 97004, LCB file R-105-97, as adopted by the Environmental Commission January 22, 1998.

Authority citation other than 233B: NRS 445B.210 and 445B.300

Notice date: February 23, 1998, March 11, 1998; and March 18, 1998

Hearing date: March 25, 1998

Date of Adoption of Agency: March 25, 1998

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 98004 (LCB R-036-98)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This regulation deals with the clarification of the comment period for Class I air quality permits.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 98004 (LCB R-036-98), was noticed three (3) times: February 23, 1998, March 11, 1998 and March 18, 1998 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The regulatory workshop was publicly noticed and held on March 19, 1998 in Carson City, Nevada. A total of four persons attended the workshop. No significant comments were received at the workshop. The public was also mailed the public notice through the Environmental Commission's mailing list. The Division of Environmental Protection also did a direct mailing to affected public agencies and businesses. At the hearing of March 25, 1998 of the Nevada Environmental Commission no public written comments were received regarding the petition affecting the minor revisions to the Class I operating permit comment process. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 27 |
| (b) | Testified at each hearing; | 7 |
| (c) | Submitted to the agency written comments: | 2 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. No written comments were received regarding this petition, nor was testimony presented regarding this petition. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission on March 25, 1998 without a request for amendment.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

There is no estimated adverse or beneficial economic effect upon business by this proposed regulation, either immediate or long term. This is a minor administrative amendment to the regulations.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no increased cost to the Division of Environmental Protection for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state regulations which NRS 445B.321 overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This proposed regulation is no more stringent than provisions of the federal Clean Air Act or of applicable parts of 40 CFR.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

**ADOPTED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R036-98

Explanation: Matter in *italics* is new. Matter in [] is material to be omitted.

AUTHORITY: §1, NRS 445B.210 and 445B.300

Section 1. NAC 445B.321 is hereby amended to read as follows:

445B.321 1. A minor revision may be made to a Class I operating permit if the revision:

(a) Does not violate any applicable requirement;
(b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;

(c) Does not require or change:

- (1) A determination of an emission limitation or other standard on a case-by-case basis;
- (2) A determination of the ambient impact for any temporary source; or
- (3) A visibility or increment analysis;

(d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:

- (1) A federally enforceable emissions cap; or
- (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);

(e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive; and

(f) Does not result in an increase in allowable emissions that exceeds any of the following specific thresholds:

- (1) Carbon monoxide, 100 tons per year
- (2) Nitrogen oxides, 40 tons per year
- (3) Sulfur dioxide, 40 tons per year
- (4) PM₁₀, 15 tons per year
- (5) Ozone, 40 tons per year of volatile organic compounds
- (6) Sulfuric acid mist, 7 tons per year
- (7) Hydrogen sulfide (H₂S), 10 tons per year

2. An owner or operator must request a minor revision on an application form provided by the director. The application must include:

(a) A description of the modification;
(b) A description of the emissions resulting from the modification;
(c) An identification of any new applicable requirements that will apply because of the modification;

Petition 98004, amending NAC 445B.321, was submitted to the State Environmental Commission (SEC) on February 9, 1998. Petition 98004 was drafted into regulatory language by the Legislative Counsel Bureau as LCB File No. R036-98. LCB File No. R036-98 was adopted by the State Environmental Commission as a permanent regulation on March 25, 1998. R036-98 was submitted to the Legislative Council Bureau on April 2, 1998 for review and filing. NAC 445B.321 was previously amended by Section 28 of Petition 97004 (LCB File No. R105-97) adopted by the SEC on January 22, 1998.

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(d) Suggested conditions of the operating permit;

(e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and

(f) Any relevant information concerning the proposed change which is required by NAC 445B.295.

3. The director shall:

(a) Determine, in accordance with subsection 3 of NAC 445B.300, whether the application for a minor revision is complete.

(b) Transmit the application to the administrator within 5 working days after the official date of submittal of the application.

(c) Provide notice to any affected state within 5 working days after the official date of submittal of the application for a minor revision.

(d) Provide a 30-day period for **[public comment on]** *comment by any affected state concerning* the application.

(e) Within 45 days after the official date of submittal of the application:

(1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;

(2) Determine whether the proposed conditions of the operating permit are adequate; and

(3) If the director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the administrator.

(f) If the director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the director must be submitted to the administrator for review.

(g) Notify the administrator of any recommendations from an affected state which the director does not accept.

4. The director may issue the minor revision upon notification by the administrator that the administrator does not object to the minor revision. If the administrator does not notify the director within 45 days after the date on which the administrator received the notification pursuant to this section or with 45 days after the date on which the administrator receives the director's proposed conditions, whichever is later, the administrator shall be deemed to have not objected the minor revision.

5. If the administrator objects to the minor revision, the director shall:

(a) Deny the application for the minor revision;

(b) Determine whether the minor revision should be reviewed under the procedures for a significant revision; or

(c) Revise the proposed revision of the operating permit and forward it to the administrator for review.

6. The director shall take action pursuant to subsection 4 or 5 within 90 days after the official date of submittal of an application for a minor revision or within 15 days after the administrator's 45-day review period ends, whichever is later.

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End of LCB File No. R036-98

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